



James N. Saul
Clinical Professor & Staff Attorney

Earthrise Law Center at Lewis & Clark Law School
10015 SW Terwilliger Blvd.
Portland, OR 97219-7799
phone 503-768-6929
fax 503-768-6642
jsaul@lclark.edu
earthriselaw.org

Submitted Via FOIA Online:

<https://www.foiaonline.gov/foiaonline/action/public/request>

December 3, 2018

National Freedom of Information Officer
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, NW (2822T)
Washington, DC 20460

RE: Request for public records pursuant to the Freedom of Information Act

Dear FOIA Officers:

Pursuant to the Freedom of Information Act ("FOIA"), 5 U.S.C. § 551 *et seq.*, the Northwest Environmental Defense Center ("NEDC") respectfully requests records held by the United States Environmental Protection Agency ("EPA") that pertain to EPA's interpretation and application of the RCRA regulation at 40 C.F.R. § 261.6(a)(3)(iv)(C), which states in pertinent part:

(a)(3) The following recyclable materials are not subject to regulation under parts 262 through parts 268, 270 or 124 of this chapter, and are not subject to the notification requirements of section 3010 of RCRA:

(iv)(C) Oil reclaimed from oil-bearing hazardous wastes from petroleum refining, production, and transportation practices, which reclaimed oil is burned as a fuel without reintroduction to a refining process, so long as the reclaimed oil meets the used oil fuel specification under § 279.11 of this chapter."

40 C.F.R. § 261.6(a)(3)(iv)(C). In particular, and as further described below, NEDC seeks records related to the application of that regulatory provision both nationwide (as a

matter of EPA policy) and within the State of Oregon, as applied to an organic recycling unit installed and operated by Chemical Waste Management of the Northwest, Inc. in Arlington, Oregon.

A. Documents Requested from EPA:

1. All documents dated on or after January 1, 2010 reflecting EPA's interpretation of 40 C.F.R. § 261.6(a)(3)(iv)(C) as applied to thermal treatment devices that that heat oil-bearing hazardous waste to vaporize, remove, and separate organic constituent materials from the recycled oil and other solids.
2. All documents relating to the factual and legal basis for the following statement, quoted from a letter sent from John Blevins, EPA Region 6, to Mr. Mr. J.D. Head, of Fritz, Byrne, Head & Fitzpatrick, PLLC (May 2, 2016), a copy of which is attached hereto and incorporated into this FOIA request:

If a [thermal desorption unit] combusts all or a portion of the vent gas, combustion of the TDU vent gas from RCRA hazardous waste or recyclable materials [40 C.F.R. § 261.6(a)(1)] is considered thermal treatment that is regulated by RCRA. Heating hazardous wastes to a gaseous state is subject to regulation under RCRA as treatment of hazardous waste, and thermal treatment after a material becomes a hazardous waste is fully regulated under RCRA.

3. All documents related to the factual and legal basis for the following statement, quoted from a letter from Michael Shapiro, Director, EPA Office of Solid Waste, to Mr. David D. Emery, President, Bioremediation Service, Inc. (February 23, 1994), a copy of which is attached hereto and incorporated into this FOIA request:

Thermal treatment units that do not use controlled flame combustion and that are not industrial furnaces are classified as "miscellaneous units" subject to regulation under 40 CFR Part 264, Subpart X. . . . The use of "controlled flame combustion" determines whether EPA regulates a device used for thermal desorption as an incinerator or a "miscellaneous unit". Consequently, a thermal desorber would be subject to regulation as an incinerator if it was equipped with a fired afterburner to destroy desorbed organic compounds, or if the desorption chamber was directly fired, irrespective of how the desorbed organics were controlled.

4. All documents relating to or reflecting whether EPA concurs with Oregon Department of Environmental Quality (“ODEQ”) that “if feed stock to [a thermal treatment device] is limited to oil bearing hazardous waste from petroleum refining, production and transportation practices and the reclaimed oil is burned as a fuel, the unit would be a recycling unit and the construction and operation of it is allowable without [a hazardous waste] permit modification.” *See* Letter from Elizabeth A. Druback, ODEQ, to James L. Denson Jr., Chemical Waste Management of the Northwest, Inc. (March 24, 2017), a copy of which is attached hereto and incorporated into this FOIA request.
5. Copies of all EPA comment letters, correspondence, inter- or intra-agency memoranda, draft permits, and final permits related to the regulation under 40 CFR Part 264, Subparts O or X of the thermal desorption units (TDUs) installed at the following hazardous waste treatment facilities:

Tradebe Treatment and Recycling LLC
4343 Kennedy Avenue,
East Chicago, IN 46312

US Ecology Texas, Inc.
3327 County Road 69,
Robstown, TX 78380
(EPA I.D. No. TXD069452340)

Chemical Waste Management, Inc.
7170 John Brannon Road
Carlyss, LA 70665
(Permit# LAD00077201-0P-RN-M0-1)
(AI# 742/PER20140007)

HydrochemPSC
15536 River Road
Norco, LA 70079-2537

This request encompasses all records, no matter the form, and includes, but is not limited to: documents, files (and their contents), photographs, video, surveys, reports, memoranda, applications, letters, notices, notes (electronic, handwritten, or otherwise), meeting minutes, graphs, charts, maps, spreadsheets, correspondence, email messages, data and electronic files. It also encompasses any non-identical duplicates of records that by reason of notation, attachment, or other alteration or supplement, may include any information not contained in the original record.

C. Request for Fee Waiver

NEDC requests that EPA waive all fees in connection with this request. NEDC is a 501(c)(3) non-profit corporation registered in the state of Oregon and was founded in 1969. NEDC is dedicated to the protection and restoration of the environment and

natural resources of the Pacific Northwest. Our members live, work, visit, and engage in recreational activities throughout the state, including the Columbia River gorge and other areas near Chemical Waste Management's Arlington, Oregon facility. NEDC works to educate its members and the general public about activities affecting Oregon's environment, natural resources, and public health, including hazardous waste management activities that may affect air and water quality and public health. NEDC's work involves ensuring that state and federal regulatory agencies meet their legal obligations when considering projects that may have detrimental environmental impacts.

FOIA carries a presumption of disclosure and the fee waiver was designed specifically to allow nonprofit, public interest groups like NEDC access to government documents without the payment of fees. The federal courts have stated that the statute "is to be liberally construed *in favor of waivers* for noncommercial requesters." *McClellan Ecological Seepage Situation v. Carlucci*, 835 F.2d 1282, 1284 (9th Cir. 1987) (quoting 132 Cong. Rec. S14298 (Sept. 30, 1986) (Sen. Leahy))(emphasis added).

As shown below, NEDC satisfies FOIA's two-pronged test for a fee waiver, 5 U.S.C. § 552(a)(4)(A)(iii); *see* 40 C.F.R. § 2.107(l). Under FOIA and the EPA's implementing regulations, the fee associated with the document production is waived if the release of the information is in the "public interest." 5 U.S.C. § 552(a)(4)(A)(iii) ("Documents shall be furnished without any charge . . . [when it is determined that] disclosure of the information is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of [the Corps] and is not primarily in the commercial interest of the requester."); 40 C.F.R. § 2.107(l). Here, disclosure of the requested records is: (1) in the public interest, and (2) is not in the commercial interest of NEDC.

1. Disclosure of the information sought by this FOIA request is in the public interest because furnishing the information will contribute significantly to public understanding of the operations or activities of the EPA.

NEDC satisfies the first criterion for the fee waiver because the requested information will contribute significantly to the public understanding of the operations or activities of the EPA. NEDC, which is generally recognized as an established expert in the field of environmental protection and regulatory compliance, possesses the ability to disseminate the requested information to the general public.

- a. The subject matter of the request concerns the operations and activities of the Corps (40 C.F.R. § 2.107(l)(2)(i)).

The information requested concerns the operations and activities of the EPA. Any documents relating to the EPA's implementation of the RCRA recycled oil exemption cited in the FOIA request and its associated assessment of the hazardous waste permit for the Arlington Facility will provide insight into the manner in which the EPA is carrying out its duties under federal laws and regulations.

- b. The information to be disclosed has important informative value because it is meaningful and will inform the public of the operations or activities of the EPA (40 C.F.R. § 2.107(l)(2)(ii)).

Disclosure of this information will meaningfully contribute to the public understanding of EPA's operations and activities as they relate to the implementation of RCRA's oil recycling exemption and the application of that exemption to the Arlington Facility. NEDC has long-standing interests in the protection of air, water, and land resources in Oregon and the Pacific Northwest, including participating in legal actions seeking to enforce RCRA and participating in hazardous waste permitting decisions in Oregon. As a result, the NEDC has developed significant expertise on those issues, and has also developed an extensive network of members, associates, and professional colleagues across the Pacific Northwest who are interested and actively engaged in protecting air, land, and resources from harm caused by improper hazardous waste treatment practices.

The Arlington Facility, and ODEQ's pending permitting decision, has already garnered significant public attention. *See* OPB, *A Dispute Is Brewing Over Mercury Air Pollution Along The Columbia River* (Aug. 23, 2018)¹; *Portland Tribune*, *Regulators don't have a handle on toxic emissions from waste plant* (Aug. 28, 2018).² In light of the controversy and media attention, there is already an audience (including but not limited to NEDC members) eager for more information on the threats to air, land, and water resources and public health from the operation of the Arlington Facility and the apparent failure of ODEQ to properly regulate it under its RCRA permitting program. Furthermore, the requested information subject to this FOIA request is not already available to the public. Therefore, using the various resources for analyzing and disseminating the information discussed below, NEDC will again act as a conduit providing access to this information sought by the general public.

¹ <https://www.opb.org/news/article/pollution-competitors-hazardous-tribes-environmentalists/>.

² <https://portlandtribune.com/pt/9-news/404464-301942-regulators-dont-have-a-handle-on-toxic-emissions-from-waste-plant>.

- c. The disclosure of this information will contribute to the general public's understanding of the operations and activities of the EPA (40 C.F.R. § 2.107(l)(2)(iii)).

NEDC will use this information to contribute to the public understanding of how the EPA meets its oversight obligations with respect to ODEQ's RCRA hazardous waste permitting program. Information that could "support oversight of [an agency's] operations" is precisely the type of information that Congress considered to have a "high potential for contribution to public understanding." *McClellan Ecological*, 835 F.2d at 1286. NEDC, long known for its leadership role and expertise in natural resource issues, uses a combination of education, research, advocacy, and litigation to advance its mission of informing the public on how the government is undertaking to protect natural resources and the environment.

NEDC intends to use the requested records to examine how the EPA is meeting its obligations to protect natural resources and public health in Oregon and to supervise ODEQ's delegated RCRA permitting program. After reviewing the information provided, NEDC intends to use its resources and expertise to inform and educate the public regarding the effect of the EPA's implementation and enforcement of RCRA on Oregon's natural resources and public health. This information may be disseminated to our members and supporters through, variously, our website, Facebook page, electronic media updates, printed newsletter, public comments or testimony on ODEQ permitting actions, and other advocacy work, all of which are available free of charge to interested parties. NEDC will also make the requested information available free of charge to any member of the public that requests it from NEDC.

- d. The disclosure will significantly enhance the public's understanding of EPA's operations or activities (40 C.F.R. § 2.107(l)(2)(iv)).

The disclosure of this information is of wide public interest and will be unique in contributing previously unknown facts, thereby enhancing public knowledge of the EPA's operations or activities. Public oversight and enhanced understanding of the EPA's implementation and enforcement of RCRA and its oversight of Oregon's RCRA permitting program is absolutely necessary. NEDC's consistent contribution to the public's understanding of federal agency activities and their effect on the environment, as compared to the level of public understanding prior to disclosure, are well established.

In determining whether the disclosure of requested information will contribute significantly to public understanding, a guiding test is “whether the requester will disseminate the disclosed records to a reasonably broad audience of persons interested in the subject.” *Carney v U.S. Dept. of Justice*, 19 F.3d 807, 815 (2nd Cir. 1994). NEDC is comprised of professionals with scientific and legal expertise who regularly write, speak, and teach on natural resources protection, public health, and other issues and as demonstrated above, NEDC is uniquely qualified to disseminate the information to a large cross-section of the population.

2. Obtaining the information is of no commercial interest to NEDC

The second element of the fee waiver analysis concerns the requester’s “commercial interest” in the information. EPA’s FOIA regulations list two factors to consider in determining whether the information is “primarily in the commercial interest of the requester.” The first factor is “the existence and magnitude of a commercial interest.” (40 C.F.R. § 2.107(l)(3)(i)). As a 501(c)(3) nonprofit organization, NEDC has no commercial, trade or profit interest in the material requested. NEDC will neither be paid for nor receive other commercial benefits from its publication or dissemination of the material requested.

The regulations’ second factor evaluates “the primary interest in the disclosure.” (40 C.F.R. § 2.107(l)(3)(ii)). Clearly, there is great public interest in the release of the materials sought because they will allow for a more thorough analysis of how EPA implements RCRA and is supervising ODEQ’s hazardous waste program. Thus, even assuming, *arguendo*, that NEDC had some “commercial” interest in the documents requested, a complete fee waiver would still be appropriate because NEDC’s primary interest in the material is to inform the public about the operations and activities of the EPA. Therefore, the disclosure of the information is not “primarily in the commercial interest of” NEDC and a fee waiver is appropriate.

C. Request for Explanation of Exempted and Nonexistent Documents

Please include in your response an explanation and accounting of which documents, if any, may be privileged or exempt from this FOIA request and why. If you claim that the records should not be disclosed, please justify your determination by referring to the specific exemption that you are invoking under the FOIA. Also, please provide those portions of documents with information requested that are not specifically exempted from disclosure. If the documents do not exist, please indicate that in your written response.

D. Conclusion

As provided by FOIA, 5 U.S.C. § 552(a)(6)(A)(i), and the implementing regulations, please provide a written response to this request within ten business days of receipt. Thank you for your time and attention in this matter, and I look forward to hearing from you shortly. If you have any questions, feel free to contact me at (503) 768-6929.

Sincerely,

A handwritten signature in black ink, appearing to read "James N. Saul".

James N. Saul
Clinical Professor and Staff Attorney

cc (via Email):

Amanda Kohler
Chief, Permits Branch
Office of Resource Conservation and Recovery
U.S. Environmental Protection Agency



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 6
1445 Ross Avenue
Dallas, Texas 75202-2733

2 MAY 2016

Mr. J.D. Head
Fritz, Byrne, Head & Fitzpatrick, PLLC
221 West 6th Street
Suite 960
Austin, Texas 78701

Dear Mr. Head:

Thank you for your October 30, 2015 letter requesting clarification of the hazardous waste regulatory standards for thermal desorption units (TDUs) installed at RCRA treatment, storage, and disposal facilities (TSDFs). I apologize for the delay in responding to your request. In your scenario, the TDU reclaims oil from oil bearing hazardous wastes generated by petroleum refining, production, or transportation practices. You describe a TDU as a device that heats solid material to vaporize, remove, and separate organic constituent materials from solids. In the scenario you describe at a TSDF, the separated organic constituents are typically condensed and recovered as a liquid oil. The TDU process also generates a vent gas after the condensing stream.

Your inquiry also references 40 C.F.R. § 261.6(a)(3)(iv)(C)¹, which provides that:

Oil reclaimed from oil-bearing hazardous waste from petroleum refining, production, or transportation practices, which reclaimed oil is burned as a fuel without reintroduction to a refining process, so long as the used oil specification under 40 C.F.R. § 279.11 is not subject to regulation under 40 C.F.R. Parts 262 – 268, 270, or 40 C.F.R. Part 124, and is not subject to the notification requirements of Section 3010 of RCRA.

If the above conditions are met, then the reclaimed oil can be burned as a non-hazardous fuel. If the oil-bearing hazardous waste is not from petroleum refining, production, or transportation practices, then the reclaimed oil is subject to RCRA regulation.

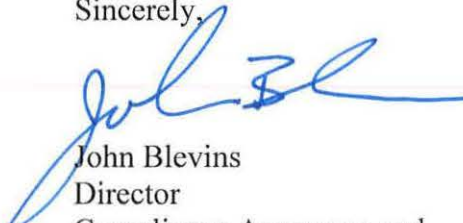
If a TDU combusts all or a portion of the vent gas, combustion of the TDU vent gas from RCRA hazardous waste or recyclable materials [40 C.F.R. § 261.6(a)(1)] is considered thermal treatment that is regulated by RCRA. The material being treated (oil-bearing hazardous waste) is already a hazardous waste. Heating hazardous wastes to a gaseous state is subject to regulation under RCRA as treatment of hazardous waste, and thermal treatment after a material becomes a hazardous waste is fully regulated under RCRA. 54 Fed. Reg. 50968, 50973 (December 11, 1989). Thus, thermal treatment of the vent gas requires a RCRA permit.

¹ Since you did not reference a specific State in which your client may operate a TDU, this letter cites to the applicable federal regulations. If the State has an authorized RCRA program, the corresponding state regulation would be applicable.

If the vent gas is combusted in the combustion chamber of the TDU, then a permit under 40 C.F.R. Part 264, Subpart O is required, because the TDU would meet the definition of incinerator in 40 C.F.R. § 260.10 (an enclosed device that uses controlled flame combustion). If, on the other hand, the vent gas is vented to and combusted in a thermal oxidizing unit (TOU), the permitting authority may be able to permit the entire unit (TDU and TOU) as a miscellaneous unit under 40 C.F.R. Part 264, Subpart X. A RCRA permit would be required even if the facility is operating as a RCRA exempt recycling activity under 40 C.F.R. § 261.6(a)(3)(iv)(C). If the permitting authority decides to issue a 40 C.F.R. Part 264, Subpart X permit, the permitting authority is required to include in the permit requirements from 40 C.F.R. Part 264, Subparts I through O, AA, BB, and CC, 40 C.F.R. Part 270, 40 C.F.R. Part 63, Subpart EEE, and 40 C.F.R. Part 146 that are appropriate for the miscellaneous unit being permitted as required in 40 C.F.R. § 264.601. The decisions as to what appropriate requirements would be included in the permit would be left to the permitting authority. However, EPA would expect that the permit conditions would be similar to those set forth in the enclosed Consent Agreement and Final Order, In Re: US Ecology Texas, Inc. and TD*X Associates, LP, EPA Docket Nos. RCRA-06-2012-0936 and RCRA-06-2012-0937, filed October 4, 2012.

If you have any questions, please feel free to contact Guy Tidmore of my staff at (214) 665-3142 or via e-mail at tidmore.guy@epa.gov.

Sincerely,



John Blevins
Director
Compliance Assurance and
Enforcement Division

Enclosure

Cc: Penny Wilson, ADEQ
Lourdes Iturralde, LDEQ
John Kielling, NMED
Mike Stickney, ODEQ
James Gradney, TCEQ

9489.1994(01)

CLARIFICATION ON THE DISTINCTION BETWEEN THERMAL DESORBERS AND
INCINERATORS

United States Environmental Protection Agency
Washington, D.C. 20460
Office of Solid Waste and Emergency Response

February 23, 1994

Mr. David D. Emery
President
Bioremediation Service, Inc.
P.O. Box 2010
Lake Oswego, Oregon 97035-0012

Dear Mr. Emery:

This is in response to your December 21, 1993, letter requesting clarification on the distinction between thermal desorbers and incinerators. In particular, you questioned whether temperature was a criterion for distinguishing between desorbers and incinerators and whether chlordane contaminated soil can be effectively and safely treated by thermal desorption.

Under the Environmental Protection Agency's (EPA's) regulations, thermal treatment units that are enclosed devices using controlled flame combustion and that are neither boilers nor industrial furnaces are classified as incinerators subject to regulation under 40 CFR Part 264, Subpart O. Definitions of boilers, industrial furnaces, and incinerators are established in 40 CFR 260.10. Thermal treatment units that do not use controlled flame combustion and that are not industrial furnaces are classified as "miscellaneous units" subject to regulation under 40 CFR Part 264, Subpart X.

The use of "controlled flame combustion" determines whether EPA regulates a device used for thermal desorption as an incinerator or a "miscellaneous unit". Consequently, a thermal desorber would be subject to regulation as an incinerator if it was equipped with a fired afterburner to destroy desorbed organic compounds, or if the desorption chamber was directly fired, irrespective of how the desorbed organics were controlled. On the other hand, if the desorption chamber was indirectly heated and the desorbed organics were not controlled using controlled flame combustion (e.g., no afterburner), the thermal desorber would be subject to regulation as a "miscellaneous unit". Thus, in response

to your questions, temperature is not a criterion that is used to determine the regulatory status of a thermal desorber.

EPA's regulations for miscellaneous units are not prescriptive given the variety of devices that fall into this category. Rather, the regulations require the permitting official to establish permit conditions that are necessary to protect human health and the environment. For "miscellaneous" thermal treatment units, permit writers will generally require compliance with all of the Subpart O incinerator standards that are appropriate for the technology and then determine if additional controls are needed to ensure that emissions are safe.

Please note that I have described EPA's regulatory classification approach for thermal desorbers. Under the Resource Conservation and Recovery Act, EPA authorizes the States to implement the hazardous waste management regulatory program. State regulations may be more stringent or broader in scope than EPA's. Therefore, you should check with the State in which the facility in question is to be located to identify any applicable standards.

With respect to your question as to whether chlordane contaminated soil can be effectively and safely treated by low temperature desorption, you should contact EPA's technical expert on thermal desorption, Paul de Percin, Office of Research and Development, for assistance. Mr. de Percin can also be consulted about TCDD conjugation but, without full thermodynamic and kinetic data regarding the process involved, it may be difficult to give you any definitive assistance. He can be reached at 513-569-7797.

I hope that this information will be helpful. If you have further questions about the regulatory classification of thermal desorbers, please contact Bob Holloway of my staff at 703-308-8461.

Sincerely,
Michael Shapiro
Director
Office of Solid Waste

cc: Paul de Percin; Bob Holloway



Chemical Waste Management of the Northwest

17629 Cedar Springs Lane
Arlington, OR 97812
(541) 454-2030 phone
(541) 454-3247 fax

March 10, 2017

VIA U.S. MAIL & E-MAIL

Elizabeth Druback
Eastern Region Manager
Hazardous Waste Program
Oregon Department of Environmental Quality
400 E Scenic Dr., Suite 2-307
The Dalles, OR 97058

**RE: Chemical Waste Management of the Northwest Inc.(CWMNW)
Permit No. ORD 089 452 353
Newly Constructed Organic Recovery Unit
Regulatory Concurrence**

Dear Ms. Druback:

On or about October 23, 2015 pursuant to 40 CFR § 270.42(c) and (e), adopted by Oregon Administrative Rule (OAR) 340-100-0002, CWMNW submitted a Class 3 Permit Modification Request (M118) for the construction and operation of a replacement Organic Recovery Unit (ORU) hazardous waste treatment system. As of this date, Oregon DEQ has not approved Permit Modification Request M118 due to its extreme complexity requiring detailed review and the necessity to consult with EPA on Class 3 permit modifications.

Due to the fact permit modification M118 may require an extended time to process and approve; CWMNW is requesting ODEQ's concurrence that operation of the unit pursuant to 40 CFR § 261.6(3)(iv)(C) is allowed without permit modification or approval, and all tanks associated with the new unit being operated pursuant to 40 CFR 262 is also allowed without permit modification or approval.

Based on these provisions, the system would reclaim oil from oil bearing hazardous wastes from petroleum refining, production and transportation practices, and the reclaimed oil will meet the used oil fuel specifications under 40 CFR § 279.11. Non-reclaimable process water carrying RCRA waste codes will be stored in the tanks in compliance with 40 CFR Part 262 and treated to meet LDR's for proper disposal in active waste impoundment Pond A or Pond B. Ash from the process carrying RCRA waste codes will meet LDR's prior to land disposal in Landfill 14.

CWMNW intends to operate the new unit in compliance with the above requirements for recyclable materials until receiving an approved permit modification for the new ORU system from the ODEQ.

I certify under penalty of law that this document and all attachments were prepared under my direction or supervision according to a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the

Dept. of Environmental Quality
Received

MAR 16 2017

ER-The Dalles

March 10, 2017

system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

Thank you again for your assistance with this important issue. Should you have any questions or concerns, please feel free to contact me by phone at (602) 757-3352 or by email at jdenson@wm.com.

Sincerely,

A handwritten signature in black ink, appearing to read "James E. Denson Jr.", with a large, loopy flourish extending from the end of the signature.

James E. Denson Jr.
PNW/BC Environmental Protection Manager

Cc:



Oregon

Kate Brown, Governor

Department of Environmental Quality

Eastern Region The Dalles Office

400 East Scenic Drive, Suite 307

The Dalles, OR 97058

(541) 298-7255

FAX (541) 298-7330

TTY 711

March 24, 2017

Mr. James L. Denson Jr.
PNW/BC Environmental Protection Manager
Chemical Waste Management of the Northwest
17629 Cedar Springs Road
Arlington, OR 97812

Re: Use of Newly Constructed Organic Recovery Unit
Concurrence
Chemical Waste Management of the Northwest
ORD #089 452 353

Dear Mr. Denson:

On March 7, 2017, the Department received a regulatory concurrence request from Chemical Waste Management of the Northwest (CWMNW). The request states that the unit will be operated as a recycling unit in accordance with the stipulations specified in 40 CFR 261.6(3)(iv)(C). In addition, all tanks associated with the new unit will be managed in accordance with all applicable hazardous waste generator standards.

The Department concurs that if feed stock to the Organic Recovery Unit is limited to oil bearing hazardous waste from petroleum refining, production and transportation practices and the reclaimed oil is burned as a fuel, the unit would be a recycling unit and the construction and operation of it is allowable without permit modification. The Department has determined that as long as the feed stock is limited to recyclable material listed above, CWMNW is in compliance with all applicable regulatory requirements.

If you have any questions, please contact Dan Duso of my staff at (541) 278-4618.

Sincerely,

Elizabeth A. Druback
Eastern Region Manager,
Solid and Hazardous Waste Programs

cc: Dan Duso; Hazardous Waste Compliance Inspector